

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON TRANSPORTATION**

**Seventy-Fifth Session
April 28, 2009**

The Committee on Transportation was called to order by Chairman Kelvin Atkinson at 1:37 p.m. on Tuesday, April 28, 2009, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/75th2009/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Kelvin Atkinson, Chairman
Assemblyman Mark A. Manendo, Vice Chair
Assemblyman John C. Carpenter
Assemblyman Chad Christensen
Assemblyman Jerry D. Claborn
Assemblywoman Marilyn Dondero Loop
Assemblyman Pete Goicoechea
Assemblyman Joseph M. Hogan
Assemblyman Ruben J. Kihuen
Assemblywoman Ellen B. Spiegel
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Marjorie Paslov Thomas, Committee Policy Analyst
Darcy Johnson, Committee Counsel
Sharon McCallen, Committee Secretary
Steven Sisneros, Committee Assistant

OTHERS PRESENT:

Martha Barnes, Administrator, Central Services and Records Division,
Department of Motor Vehicles
Allison Wall, Manager II, Central Services-Processing Center, Department
of Motor Vehicles
John P. Sande, III, representing the Nevada Franchised Auto Dealers
Association, Reno, Nevada
Wayne A. Frediani, Executive Director, Nevada Franchised Auto Dealers
Association, Reno, Nevada
Alfredo Alonso, Reno, Nevada, representing the Alliance of Automobile
Manufacturers, Washington, District of Columbia
James B. Gibson, Henderson, Nevada, representing Insurance Auto
Auctions, Inc., Westchester, Illinois
Robert P. Ellis, Henderson, Nevada, representing Insurance Auto
Auctions, Inc., Westchester, Illinois
Robert L. Compan, Government Affairs Representative, Farmers Insurance
Group, Las Vegas, Nevada
Michael Geeser, representing the American Automobile Association
of Nevada, Las Vegas, Nevada
John W. Griffin, Reno, Nevada, representing the LKQ Corporation,
North Las Vegas, Nevada

Chairman Atkinson:

We have four bills to be heard. The first will be Senate Bill 100.

Senate Bill 100: Revises the provisions governing the period of revocation of a driver's license upon conviction of certain offenses involving driving under the influence. (BDR 43-342)

Martha Barnes, Administrator, Central Services and Records Division,
Department of Motor Vehicles:

We are here to present S.B. 100.

Allison Wall, Manager II, Central Services-Processing Center, Department of Motor Vehicles:

[Spoke from prepared testimony ([Exhibit C](#)).]

Assemblyman Carpenter:

I thought we did something about this in the Judiciary Committee. Do you know?

Martha Barnes:

We heard this in the Senate Judiciary, originally. I believe the change was made in 2005. The information they put in pursuant to the offense we do not have right now, so we cannot take action on it. Our concern was sending it back and then not getting it back to take action.

Chairman Atkinson:

We will close the hearing on Senate Bill 100 [and bring it back to the Committee].

We will open the hearing for Senate Bill 246 (2nd Reprint).

Senate Bill 246 (2nd Reprint): Revises provisions governing the sale of vehicles.
(BDR 43-989)

John P. Sande, III, representing the Nevada Franchised Auto Dealers Association, Reno, Nevada:

This bill primarily deals with the franchise laws that regulate relationships between manufacturers of automobiles and dealers of automobiles. Section 2 deals with a requirement by a manufacturer that a dealer substantially alter an existing facility or construct a new facility. That has happened several times in Nevada, especially in some of the smaller areas. Sometimes it is very difficult for the dealer to comply with that because of the cost. However, the dealer would be required to do this if the alteration or new construction constitutes a reasonable facility requirement in accordance with the franchise agreement. If it is reasonable the dealer would have to do it. However, under subsection 2 of section 2 it states that if there is a requirement to alter or build a new facility, that would be deemed to be a modification under the franchise agreement which would allow the dealer, if the dealer wanted to, to have a hearing before the Department of Motor Vehicles (DMV) to determine whether or not the modification was reasonable.

Section 3 of the bill addresses a minor problem that some dealers, I think primarily in southern Nevada, have had. This would provide that a manufacturer should not modify the franchise if one of the automobiles sold by the dealer was

exported, unless the dealer knew that it was being exported. Apparently, the manufacturers do not want cars that are supposedly being sold in Nevada but are maybe being sold in some other region.

Sections 5, 6, and 7 are very important and do not impact automobile dealers, but there is something that I think the Legislature wants to address, and I think the DMV would be supportive of this. Under existing law, if you are a broker of an automobile and you defraud the customer, you can have your license rescinded. There is an example in northern Nevada where a broker had his license rescinded and he went to work for another broker because existing law does not require an agent of a broker to be licensed. That is a problem with the law that we have discovered. I think it is very important to make sure that if you are a broker or an agent you must be licensed.

Section 8 of the bill deals with circumstances with all of these different bankruptcies, et cetera, where a manufacturer may be purchased by another manufacturer. Under these circumstances an existing dealer in Nevada would be entitled to receive a substantially different franchise agreement in the same line and make of vehicles as the new owner provides to other similar dealers. That is to make sure that the dealer is protected.

Finally, and most importantly, on page 11 of the bill under section 13, under existing law a dealer has 15 days within which to obtain financing for a motor vehicle if a contract of sale has not been executed. Unfortunately, I believe the sales in Clark County were down 52 percent, and it is very difficult to find lenders who are willing to make automobile loans under existing circumstances. We are proposing to give the dealer, instead of 15 days, 20 days which equates to the same time period that you have within which to give your dealer report of sale to the DMV. Basically, you would have a 20-day period to try to get financing for the dealer. We believe that this is very important.

Assemblywoman Spiegel:

I have a question on the last section you were speaking about, the provision that the seller may elect to rescind the contract. If someone is doing a trade-in, is the dealer required to hold the car, and would that also be extended to the 20 days?

John P. Sande, III:

Yes. We had that issue come up. That is what we call a yo-yo sale. That is where somebody comes to a dealership wanting to buy a car, they trade in a car, and they get a contract. When they go to take the new car out and they cannot get financing they come back to the dealership and say, "I would like my car back." The dealer says, "Sorry, we sold it." I believe we addressed that

two sessions ago with Assemblywoman Buckley. That is now prohibited by law. You must keep the used car that is traded in until such time as the contract is finalized, and then you can go out and sell it. There would be no difference if they brought them back 19 days later instead of 14 days later. They would still have their used cars.

The only thing that I wanted to specify is that there is a lot of uncertainty right now, as I am sure people are seeing, regarding what is going on with bankruptcy. Hopefully, within the next two weeks we are going to have a better understanding. I can tell you that there are going to be some changes with manufacturers. There are going to be some changes with franchise agreements. This bill is important for this industry going forward regardless of what happens with the restructuring. There are going to be many car dealers eliminated. To what extent that will affect Nevada I do not know yet. It is going to be substantial, and this bill would protect those who survive and make it through this restructuring.

Assemblyman Carpenter:

Some of these dealers are going out of business now. What is happening to them? There was one in particular that I thought was doing quite well, but they are now out of business.

Wayne A. Frediani, Executive Director, Nevada Franchised Auto Dealers Association, Reno, Nevada:

I just came back from the Obama task force in Virginia. General Motors is going to restructure. Whether they file for chapter 11 bankruptcy is unknown at this time, but they are going to eliminate approximately 2,000 dealerships in this country over the next two years. I am not sure of the criteria that is going to be used, but it is our understanding that General Motors will have a site selection committee that will be looking at every dealership and every location in the country and determining, probably based upon sales, customer service satisfaction, and a number of things, who is going to continue in business with the franchise agreement with them and who is not. I am not sure how many of those dealerships will be eliminated in Nevada. Northern Nevada will probably not be as bad as southern Nevada because all of the dealerships in northern Nevada are single-point dealerships. That means there is only one franchise for each make in the cities here. That is the case in the rural cities. In Las Vegas there are multiple dealerships. There is the potential that there could be some dealerships eliminated. There is also the potential that in small, rural areas there could be some dealerships eliminated, but that will be at the direction of General Motors.

Assemblyman Carpenter:

Are they going to have a lot of company stores?

Wayne Frediani:

There are not going to be any factory-owned stores because it is prohibited by this franchise act. You cannot own a company store. I do not think that is their intent across the country. The reality with General Motors is that four divisions are going to most likely be eliminated. Those will be Saturn, Saab, Hummer, and Pontiac. General Motors will probably be four franchises, which will be Cadillac, Chevrolet, GMC Truck, and Buick. It is not my understanding that they intend to own any from a corporate standpoint.

Assemblywoman Dondero Loop:

Will these dealerships, after they have been given notice, be somehow mandated to give their employees notice so that they do not show up to work only to find out that they do not have a job anymore?

Wayne Frediani:

It is my understanding that they will give some time frame on when this franchise agreement will end. Dealers will, I am sure, notify their employees as soon as possible. If it goes to bankruptcy, then the bankruptcy court basically has control over everything. It remains unknown as to how that process will go. I assume that my dealers are going to let their employees know as soon as they know.

Assemblywoman Dondero Loop:

I know that did not happen in at least one instance in Las Vegas. I think that when people get up in the morning and go to work they deserve more than two hours' notice.

Wayne Frediani:

I think the one store you are referring to was shut down by General Motors because that entire auto corporation was out of trucks in fourteen different dealerships across the country, so they shut them down immediately. The factory has a right to do that, and that is probably an exception to what most of these stores are going to face.

Alfredo Alonso, Reno, Nevada, representing the Alliance of Automobile Manufacturers, Washington, District of Colombia:

We worked with the sponsors of the bill to craft something that we think is fair. Obviously, they have some concerns about dealers and dealerships being required to spend money when there are no car sales, and I think that is reasonable. I think we have included some language that takes that into

account. Obviously, when things rebound, and there are those facilities that are in disrepair, there is a process to go through if the manufacturer believes they need to upgrade. As for the rest of the bill, we support the provisions on the brokers. That is a concern to all of us.

Chairman Atkinson:

Did you do anything with an amendment, or did you present them today?

John P. Sande, III:

Are you talking about the possibility of a regulation?

Chairman Atkinson:

Yes.

John P. Sande, III:

I had a conversation with Assemblywoman Buckley, who, on page 11, extended it to 20 days. I believe it is her preference to have that done by regulation as it is now rather than put it in the statute; maybe limit it to 18 months and take a look at it then. The contracts are done by regulation by the Division of Financial Institutions. I have talked with the Commissioners yesterday. We just have to get an emergency letter from the Governor.

Chairman Atkinson:

We will close the hearing on Senate Bill 246 (2nd Reprint) and bring it back to the Committee.

We will now open the hearing for Senate Bill 360 (1st Reprint).

[Senate Bill 360 \(1st Reprint\)](#): Revises provisions governing the sale and title of salvage vehicles. (BDR 43-1244)

James B. Gibson, Henderson, Nevada, representing Insurance Auto Auctions Inc., Westchester, Illinois:

[Spoke from written testimony ([Exhibit D](#)).]

Robert P. Ellis, Henderson, Nevada, representing Insurance Auto Auctions, Inc., Westchester, Illinois:

I think Mayor Gibson did a good job and covered everything we have spoken about.

Robert L. Compan, Government Affairs Representative, Farmers Insurance Group, Las Vegas, Nevada:

We support the bill. Through the salvage pools it affects mainly our customers through the sale of salvage. Right now, through the North American Free Trade Agreement (NAFTA), a lot of our cars that we are selling to Mexican salvage buyers are failing to go across the borders. Therefore, we are getting a stockpile of salvage that is still sitting in our salvage pools. Working with the Mayor and Mr. Ellis, we are confident that the language in the bill will not allow the vehicles that are unsafe to be on the road. We feel that, ultimately, if an unsafe vehicle was to leave the salvage pool and return to Nevada's highways, under this language, the strict liability laws in Nevada would ultimately fall back on us. We have confidence in the bill.

Michael Geeser, representing the American Automobile Association of Nevada, Las Vegas, Nevada:

We support the bill. We think parameters are in place to keep safe vehicles on the road.

John W. Griffin, Reno, Nevada, representing the LKQ Corporation, North Las Vegas, Nevada:

We have problems with the bill in its current form. We have been working with proponents in the Department of Motor Vehicles (DMV). We have a conceptual bullet-point agreement, and we are working with the DMV today. We will work, with all due speed, to get that language in writing in a form that is sufficient to get to the Chairman and the Committee for review.

The amendment was submitted yesterday ([Exhibit E](#)). Since that time we have had numerous discussions with the proponents. That is not the conceptual amendment that I am speaking of. The conceptual amendment will be in a different form.

Assemblywoman Dondero Loop:

We have a piece of paper ([Exhibit F](#)) in front of us that came with Mr. Ellis' email ([Exhibit G](#)). It lists states that currently require buyer identification cards (BID)—Utah is listed under states that currently require BID cards—and states that restrict the sale of salvage vehicles to individuals. Utah is listed in both categories.

James Gibson:

The list was prepared at the time the proposal was submitted to the Legislative Counsel Bureau (LCB). Since that time—and I indicated this in the email that I sent to LCB—the state of Utah has adopted legislation similar to what is proposed here. One principal difference is not all that significant. In the

legislation before you, the public would be allowed to purchase three vehicles per calendar year. Utah approved five vehicles per calendar year. Otherwise, Utah would be on the list, and it would not be 36 states that have similar legislation but rather 37.

Assemblyman Manendo:

I work for Collision Authority. They are a body shop in Las Vegas. I do not think this will impact them, but just in case, I wanted to mention it for the record.

Chairman Atkinson:

We will close the hearing on Senate Bill 360 (1st Reprint) [and bring it back to the Committee].

We have one bill remaining, Senate Bill 251 (2nd Reprint), but we are going to hear that bill next week.

The meeting is adjourned [at 2:18 p.m.].

RESPECTFULLY SUBMITTED:

Sharon McCallen
Committee Secretary

Kyle McAfee
Transcribing Secretary

APPROVED BY:

Assemblyman Kelvin Atkinson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Transportation

Date: April 28, 2009

Time of Meeting: 1:37 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance roster
S.B. 100	C	Allison Wall	Testimony in support
S.B. 360 (R1)	D	James Gibson	Testimony in support
S.B. 360 (R1)	E	John Griffin	Proposed amendment
S.B. 360 (R1)	F	Robert Ellis	Information on salvage sales
S.B. 360 (R1)	G	Robert Ellis	Email